

IN THE UNITED STATES DISTRICT COURT
FOR THE WESTERN DISTRICT OF WISCONSIN

RICHARD HOEFT,

Plaintiff,

v.

SGT. ROBERT HARROP,

Defendant.

ORDER

08-cv-674-bbc

On September 15, 2009, I granted defendant's Sgt. Robert Harrop's motion for summary judgment in this case after finding that plaintiff Richard Hoeft had failed to adduce sufficient evidence from which a reasonable jury could find that defendant violated plaintiff's Eighth Amendment rights.

Now before the court is plaintiff's notice of appeal. Because plaintiff has not paid the \$455 fee to file his appeal, I construe his notice of appeal as a request to proceed in forma pauperis on appeal. Plaintiff was not granted leave to proceed in forma pauperis in this case because defendant paid the filing fee when he removed it from state court. However, I have found in plaintiff's most recent case (case no. 09-cv-138) that he is indigent. Therefore, he "may proceed on appeal in forma pauperis unless the district court shall certify that the

appeal in not taken in good faith or shall find that the party is otherwise not entitled so to proceed.” Fed. R. App. P. 24(a). I cannot certify that the appeal is not taken in good faith and I can see no other reason to deny plaintiff’s request to proceed in forma pauperis.

ORDER

IT IS ORDERED that plaintiff’s motion for leave to proceed in forma pauperis on appeal, dkt. #48, is GRANTED.

Entered this 9th day of October, 2009.

BY THE COURT:

/s/

BARBARA B. CRABB
District Judge